



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

March 31, 2023

THE ADMINISTRATOR

The Honorable Sherrod Brown
United States Senate
Washington, D.C. 20510

Dear Senator Brown:

Thank you for your continued support for the people of Ohio and Pennsylvania affected by Norfolk Southern's train derailment in the greater East Palestine community. In accordance with its mission to protect human health and the environment, the U.S. Environmental Protection Agency (EPA) has been on the ground, working with bipartisan federal, state, and local partners to help those affected, since we arrived at the site within hours of the derailment. We appreciate the opportunity to continue to engage with you on this matter of vital importance, and we are sending this letter to provide a written response to the specific issues raised in your letter of February 15, 2023.

EPA is committed to the ongoing response efforts, and we will continue to work with federal, state, and local responders, as we have from day one. EPA is working to ensure that the cleanup is proceeding expeditiously while also staying mindful of our paramount responsibilities to proceed safely and to provide timely notifications to the community. EPA is responding to the derailment under its emergency response and removal authorities defined in the Comprehensive Environmental Response, Cleanup and Liability Act (CERCLA) and is overseeing work performed by Norfolk Southern to address immediate threats to human health and the environment. After the immediate threats to human health and the environment are addressed, EPA will evaluate whether or not any remaining issues will need to be addressed under CERCLA in the long-term. At this time, EPA cannot predict all additional measures that might be required.

EPA commits to using its existing authorities to the fullest extent necessary to hold the Responsible Party, Norfolk Southern, accountable for all necessary short- and long-term cleanup activities to address the environmental contamination caused by the derailment. This includes issuance of a Unilateral Administrative Order (UAO) pursuant to CERCLA to Norfolk Southern on February 21, 2023, that provides the legally enforceable framework for cleaning up the site. EPA's UAO directed Norfolk Southern to conduct necessary cleanup actions to remediate contamination, including all releases that may pose an imminent and substantial endangerment to public health or the environment. Further, EPA's March 17, 2023, letter to Norfolk Southern outlined EPA's expectation that Norfolk Southern consider all options to comply with disposal

requirements set forth in the Unilateral Administrative Order and in EPA-approved work plans to secure disposal of wastes from the East Palestine Site.¹ This includes seeking performance of contracts that Norfolk Southern has or will enter into with disposal facilities to accept wastes from the East Palestine Site and payment of increased contract costs associated with waste shipment and disposal from the site.

Below is a list of key authorities that EPA uses, as appropriate, to respond to environmental disasters. EPA retains all of our enforcement tools under a broad suite of existing authorities to respond to environmental disasters and will not hesitate to rely on them to support the people of East Palestine and the surrounding communities in Ohio and Pennsylvania. These authorities include:

- Sections 104 and 106 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9604, 9606;
- Section 7003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6973;
- Sections 112(r) and 303 of the Clean Air Act, 42 U.S.C. §§ 7412(r), 7603;
- Sections 311 and 504 of the Clean Water Act, 33 U.S.C. §§ 1321, 1364;
- Section 1431 of the Safe Drinking Water Act, 42 U.S.C. § 300i(a).

In addition to the above emergency authorities, EPA has authority to seek information (e.g., under CERCLA Section 104, RCRA Section 3007), authority to seek injunctive relief where there are violations of law (e.g., under CWA 301, RCRA Section 3008) and criminal enforcement remedies. More information about EPA's role in Emergency Response can be found on EPA's website.² CERCLA also allows EPA access to the Superfund Trust Fund if responsible parties are unable or unwilling to conduct cleanup activities timely and properly.

EPA also brings a vast network of technical expertise to its response efforts. This includes the gathering and monitoring of data from various sources to ensure the health and welfare of the affected communities. Beginning with the initial, coordinated effort with Ohio Environmental Protection Agency and other federal, state, and local partners, and later under the Unified Command structure, EPA and the other response parties adapted their multi-layered air and water monitoring activities as the situation evolved. EPA continues to post EPA-collected environmental information on its website to make data accessible to the public.³ Further, under the Unilateral Administrative Order, Norfolk Southern is required to prepare a monitoring and sampling plan for indoor air of occupied structures and perimeter air at any remediation areas and is also required to develop and implement a plan for the identification and delineation of the extent of contamination, as well as the cleanup of surface and subsurface soils, surface waters

¹ The Unilateral Administrative Order defines the Site as “the areal extent of where hazardous substances have come to be located, in Ohio and Pennsylvania, as a result of the Norfolk Southern Railway Company train derailment that occurred on February 3, 2023, at the rail line northeast of East Taggart Street and North Pleasant Drive intersection in East Palestine, Columbiana County, Ohio (Latitude: 40.8360395 Longitude: 80.5222838) and the subsequent emergency response activities including, but not limited to, breached rail cars and the controlled “vent and burn” that occurred on February 6, 2023.”

² <https://www.epa.gov/emergency-response/emergency-planning-and-response-authorities>

³ <https://www.epa.gov/oh/east-palestine-ohio-train-derailment-emergency-response>

and sediments, groundwater, and drinking water sources (including private, municipal, and agricultural wells).


EPA appreciates your interest in the duration of remediation of the immediate accident site and related monitoring. EPA has been posting information about the progress of the cleanup on its website and recently launched a weekly newsletter for affected communities in Ohio and Pennsylvania. As noted in that newsletter, as of March 25, 2023, approximately 8.6 million gallons of liquid waste and 9,171 tons of contaminated soils or solids have been shipped off-site. Nearly half of total excavation under the tracks is complete, and we anticipate restoration under the tracks to be complete by the middle of next month.

At the current rate, EPA's expectation is that Norfolk Southern will complete cleanup of the accident site this summer barring adverse site conditions, such as weather delays or limited access to waste disposal locations. The duration of monitoring will be informed by the extent and type of contamination.

Since the beginning of the response, the EPA team, led by the Incident Commander, has focused on the paramount objective of ensuring the health and safety of the public, including the response workforce. Air monitoring, as well as the Assessment of Chemical Exposure (ACE) investigation by the Centers for Disease Control and Prevention, continue to ensure that onsite health and safety are prioritized.

EPA is committed to protecting the health and safety of the communities affected by the Norfolk Southern train derailment and intends to remain a presence in the response efforts for as long as it takes. Thank you for your support of the ongoing response efforts. If you have further questions, please contact me, or your staff may contact Tim Del Monico at (202) 564 – 5200 or delmonico.tim@epa.gov.

Sincerely yours,

A handwritten signature in black ink that reads "Michael S. Regan". The signature is written in a cursive, flowing style.

Michael S. Regan

United States Senate

WASHINGTON, DC 20510

February 18, 2023

Ms. Anne Vogel
Director
Ohio Environmental Protection Agency
PO Box 1049
Columbus, OH 43216

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Director Vogel and Administrator Michael Regan:

We write regarding the February 3, 2023 Norfolk Southern train derailment near the Ohio-Pennsylvania border in East Palestine, Ohio and to inquire about the scope of monitoring in East Palestine and the surrounding communities. Specifically, we request additional information regarding the Ohio Environmental Protection Agency (OEPA)'s and the U.S. Environmental Protection Agency (EPA)'s plans to monitor East Palestine and the surrounding area for dioxins.

We appreciate the swift responses both of your agencies have executed in response to this crisis, and for the assistance to local authorities and residents. We also appreciate the extensive air monitoring U.S. EPA has undertaken related to vinyl chloride and several known by-products that are produced when vinyl chloride burns including phosgene and hydrogen chloride. However, following our visits to East Palestine this past week where we heard directly from members of the community, we remain concerned that it does not appear that the U.S. EPA, OEPA, or Norfolk Southern is testing for dioxins.

The combustion of vinyl chloride can lead to the formation of dioxins. Dioxins are a group of compounds that are persistent environmental pollutants known to bioaccumulate in animals and humans. According to the U.S. EPA, dioxins are highly toxic, can interfere with hormones, and can cause cancer, reproductive and developmental problems, or damage to the immune system.¹ We are concerned that the burning of large volumes of vinyl chloride may have resulted in the formation of dioxins that may have been dispersed throughout the East Palestine community and potentially a much larger area.

¹ <https://www.epa.gov/dioxin/learn-about-dioxin>

In response to this incident, we ask that you provide clarifying answers to the following questions by Friday, February 24th.

1. Has either the OEPA and/or U.S. EPA been monitoring the air for dioxins?
2. If not, please explain why the OEPA and/or U.S. EPA has not been monitoring for dioxins?
3. Is the OEPA or U.S. EPA aware of any other entity that may be monitoring for dioxins, including Norfolk Southern?
4. Are there additional resources or authorities that OEPA or U.S. EPA needs in order to undertake regular monitoring for dioxins in East Palestine and the surrounding community?
5. Does OEPA or U.S. EPA have a system set up for members of the community and other expert stakeholders to engage on the testing and monitoring regimen following the train derailment and subsequent activities in East Palestine to ensure a thorough, comprehensive response to monitor the area for potential pollutants? If not, will you commit to establishing appropriate protocol to ensure engagement?
6. If dioxins are detected in the region, what are OEPA's and U.S. EPA's respective protocols for communicating with the local community, addressing the potential contaminant(s), and protecting the local community from potential long-term exposure?

We urge OEPA and U.S. EPA to act immediately to coordinate and ensure regular testing and monitoring for dioxins remains a priority moving forward. This monitoring should not only be a part of a long-term strategy, it should be implemented immediately and communicated to the local community to ensure transparency.

If there's anything we can do to help ensure OEPA and U.S. EPA have the resources and support necessary to ensure thorough testing for dioxins, in addition to the other air, soil, and water sampling U.S. EPA is conducting, please do not hesitate to ask. We remain committed to supporting your work protecting the public health.

Thank you for your prompt attention to this critical matter.

Sincerely,



Sherrod Brown
United States Senator



JD Vance
United States Senator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable John Thune
United States Senate
Washington, D.C. 20510

Dear Senator Thune:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

On April 28, EPA Administrator Regan, in consultation with the Department of Energy, granted the enclosed temporary waiver to extend the 1-psi waiver to E15 in parts of the country where it already exists for E10. EPA's emergency fuel waiver went into effect on May 1 and will last through May 20 which is the statutory maximum of 20 days. EPA will continue to monitor the supply with industry and federal partners and expects to issue new waivers effectively extending the emergency fuel waiver until such time as the extreme and unusual fuel supply circumstances due to the war in Ukraine are no longer present.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Richard J. Durbin
United States Senate
Washington, D.C. 20510

Dear Senator Durbin:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Charles E. Grassley
United States Senate
Washington, D.C. 20510

Dear Senator Grassley:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Debbie Stabenow
United States Senate
Washington, D.C. 20510

Dear Senator Stabenow:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

On April 28, EPA Administrator Regan, in consultation with the Department of Energy, granted the enclosed temporary waiver to extend the 1-psi waiver to E15 in parts of the country where it already exists for E10. EPA's emergency fuel waiver went into effect on May 1 and will last through May 20 which is the statutory maximum of 20 days. EPA will continue to monitor the supply with industry and federal partners and expects to issue new waivers effectively extending the emergency fuel waiver until such time as the extreme and unusual fuel supply circumstances due to the war in Ukraine are no longer present.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Jerry Moran
United States Senate
Washington, D.C. 20510

Dear Senator Moran:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

On April 28, EPA Administrator Regan, in consultation with the Department of Energy, granted the enclosed temporary waiver to extend the 1-psi waiver to E15 in parts of the country where it already exists for E10. EPA's emergency fuel waiver went into effect on May 1 and will last through May 20 which is the statutory maximum of 20 days. EPA will continue to monitor the supply with industry and federal partners and expects to issue new waivers effectively extending the emergency fuel waiver until such time as the extreme and unusual fuel supply circumstances due to the war in Ukraine are no longer present.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Sherrod Brown
United States Senate
Washington, D.C. 20510

Dear Senator Brown:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Deb Fischer
United States Senate
Washington, D.C. 20510

Dear Senator Fischer:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Amy Klobuchar
United States Senate
Washington, D.C. 20510

Dear Senator Klobuchar:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable M. Michael Rounds
United States Senate
Washington, D.C. 20510

Dear Senator Rounds:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Tammy Baldwin
United States Senate
Washington, D.C. 20510

Dear Senator Baldwin:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

On April 28, EPA Administrator Regan, in consultation with the Department of Energy, granted the enclosed temporary waiver to extend the 1-psi waiver to E15 in parts of the country where it already exists for E10. EPA's emergency fuel waiver went into effect on May 1 and will last through May 20 which is the statutory maximum of 20 days. EPA will continue to monitor the supply with industry and federal partners and expects to issue new waivers effectively extending the emergency fuel waiver until such time as the extreme and unusual fuel supply circumstances due to the war in Ukraine are no longer present.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Joni K. Ernst
United States Senate
Washington, D.C. 20510

Dear Senator Ernst:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Tammy Duckworth
United States Senate
Washington, D.C. 20510

Dear Senator Duckworth:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Kevin Cramer
United States Senate
Washington, D.C. 20510

Dear Senator Cramer:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Tina Smith
United States Senate
Washington, D.C. 20510

Dear Senator Smith:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Josh Hawley
United States Senate
Washington, D.C. 20510

Dear Senator Hawley:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Roger Marshall, M.D.
United States Senate
Washington, D.C. 20510

Dear Senator Marshall:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Pete Ricketts
United States Senate
Washington, D.C. 20510

Dear Senator Ricketts:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Sherrod Brown
United States Senate
Washington, D.C. 20510

Dear Senator Brown:

Thank you for your February 28, 2023, letter to President Biden regarding the need for an emergency waiver of certain Clean Air Act fuel requirements to address extreme and unusual fuel supply circumstances and prevent the disruption of sales of E15 fuel during the 2023 summer driving season. Your letter was forwarded to the U.S. Environmental Protection Agency (EPA) for response.

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Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 4, 2023

OFFICE OF
AIR AND RADIATION

The Honorable Sherrod Brown
United States Senate
Washington, D.C. 20510

Dear Senator Brown:

Thank you for your February 9, 2023, letter to U.S. Environmental Protection Agency (EPA) Administrator Michael Regan regarding EPA's rulemaking to remove the 1-psi waiver in several petitioning states. Administrator Regan asked that I respond to you on his behalf.

We are pleased to share that on March 1, 2023, EPA announced a proposed rule in response to the petitions from the Governors of Illinois, Iowa, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin to remove the 1-psi waiver for gasoline-ethanol blends containing 10 percent ethanol in their states. This action proposes that the regulations would take effect for the summer 2024 driving season given the likelihood of insufficient supply of gasoline in the petitioning states were it to have taken effect this coming summer. When implemented, this action will allow E15 to be made using the same blendstock as E10 in the summer. Consistent with Clean Air Act requirements, we held a public hearing on March 21, 2023, and will allow for public comment on the proposed rule through April 20, 2023.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Joseph Goffman
Principal Deputy Assistant Administrator

Congress of the United States

Washington, DC 20515

February 9, 2023

The Honorable Michael Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

The Honorable Shalanda D. Young
Director
Office of Management and Budget
725 17th Street N.W.
Washington, D.C. 20503

Dear Administrator Regan and Director Young,

We write today to urge the U.S. Environmental Protection Agency (EPA) swiftly and diligently implement the outstanding regulatory action to remove the 1-psi volatility waiver for gasoline-ethanol blends in Midwest states. The 2023 summer driving season is quickly approaching and action is necessary to provide certainty to the marketplace.


Relying on an annual emergency waiver is not a permanent solution for fuel retailers, consumers, or the environment. On April 28, 2022, several Midwest governors formally notified the EPA of their request to permanently remove the 1-psi volatility waiver to allow their states to sell gasoline containing 15% ethanol (E15) year-round, without restriction¹. Since then, more states have joined this effort. Homegrown, American-produced ethanol strengthens our national security and ensures lower vehicle emissions to achieve the Administration's climate goals.

As Section 211(h)(5)(B) of the Clean Air Act states, the Administrator "shall promulgate regulation" effectuating this action "... not later than 90-days after the date of receipt of a notification from a Governor." Therefore, this rulemaking should have been completed in July 2022 and unfortunately, we still have no regulatory certainty for our fuel retailers, fuel blenders, or biofuel producers. On December 7, 2022, the draft rule from EPA, which would approve the Governors' request, appeared on the Office of Management and Budget (OMB) docket. The Midwest states Attorneys General (AGs) have sent a follow up letter to the EPA and OMB urging them to move quickly with this rulemaking to prevent irreparable harm.

Higher blends of ethanol like E15 are a common-sense solution to lower the cost for consumers at the gas pump and to lower vehicle emissions. As we gear up for the summer 2023 travel season, we have the production and distribution infrastructure to meet consumer demand for this lower cost and environmentally friendly fuel option. By working swiftly to finalize the Governors' requests, you will bring much needed certainty to our corn growers, fuel retailers, and consumers to enjoy the clean-burning, lower cost benefits of year-round E15 through the 2023 summer driving season.

Sincerely,



Joni K. Ernst
United States Senator

Tammy Duckworth
United States Senator

¹ Office of the Governor of Iowa. "Governors Letter to EPA on RVP Waiver 4.28.22"

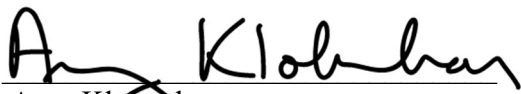
https://governor.iowa.gov/sites/default/files/documents/Governors%20Letter%20to%20EPA%20on%20RVP%20Waiver%204.28.22.pdf?utm_medium=email&utm_source=govdelivery.



Tammy Baldwin
United States Senator



Deb Fischer
United States Senator



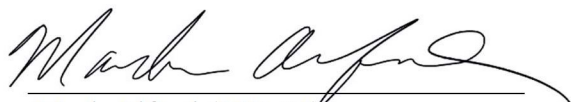
Amy Klobuchar
United States Senator



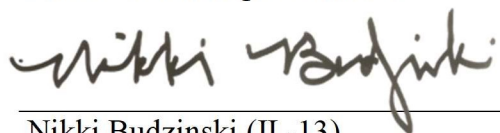
Pete Ricketts
United States Senator



Brad Finstad (MN-01)
United States Representative



Mark Alford (MO-04)
United States Representative



Nikki Budzinski (IL-13)
United States Representative



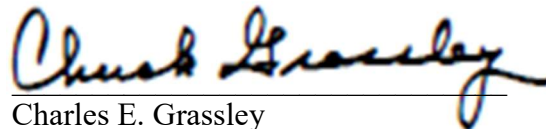
Sharice L. Davids (KS-03)
United States Representative



Randy Feenstra (IA-04)
United States Representative



Sherrod Brown
United States Senator



Charles E. Grassley
United States Senator



Roger Marshall, M.D.
United States Senator



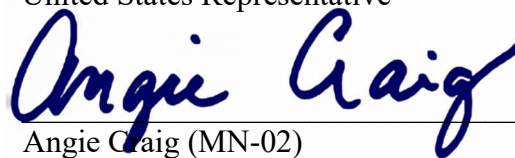
Tina Smith
United States Senator



Ashley Hinson (IA-02)
United States Representative



Mike Bost (IL-12)
United States Representative



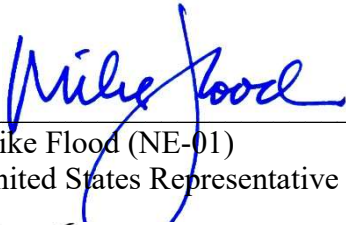
Angie Craig (MN-02)
United States Representative



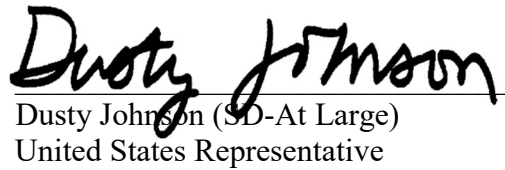
Tom Emmer (MN-06)
United States Representative



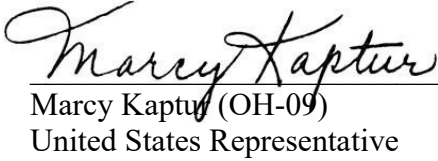
Michelle Fischbach (MN-07)
United States Representative



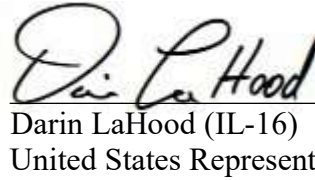
Mike Flood (NE-01)
United States Representative



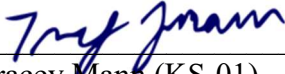
Dusty Johnson (SD-At Large)
United States Representative



Marcy Kaptur (OH-09)
United States Representative



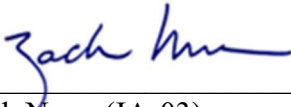
Darin LaHood (IL-16)
United States Representative



Tracey Mann (KS-01)
United States Representative



Mariannette Miller-Meeks (IA-01)
United States Representative



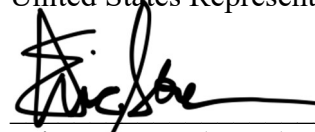
Zach Nunn (IA-03)
United States Representative



Mark Pocan (WI-02)
United States Representative



Adrian Smith (NE-03)
United States Representative



Eric Sorensen (IL-17)
United States Representative



Pete Stauber (MN-08)
United States Representative

United States Senate

WASHINGTON, DC 20510

February 28, 2023

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Biden:

We write to request you again direct the Environmental Protection Agency (EPA) to use existing authority to prevent the disruption of sales of E15 fuel during the 2023 summer driving season by extending the Reid vapor pressure (RVP) allowance from June 1 through September 15.

As you know, enabling full market access for E15 increases the energy security, environmental, and economic benefits of the domestic fuel supply and is a sound component of an all-of-the-above energy strategy. Unfortunately, an underlying justification for your emergency action last summer, the Russian war of aggression against Ukraine, appears likely to continue causing global energy and security issues into this year.¹ Taking early action on E15 will send timely and necessary signals across the energy supply chain so that fuel producers and retailers will have the certainty they need to ensure affordable, reliable, and cleaner fuel options for American consumers throughout the year. Further, U.S. use of E15 will continue to displace Russian oil and finished gasoline products, ease domestic and global supply constraints, and lower net domestic fuel prices.

States hold authority under the Clean Air Act (CAA) to request that EPA permit them to effectively require lower volatility fuel in their states during the summer months by eliminating the RVP allowance for standard E10 blends. Numerous states have sought to use this option to enable consumers in their states to permanently access a more affordable and cleaner fuel amidst elevated energy costs. While the regulatory process to implement their request is ongoing, retailers and consumers alike need to know that they can access E15 this summer. Uniformity across the nation's fuel supply chain, resulting from your administration acting again, would provide consumer benefits and regulatory certainty nationwide.

This is why biofuel, oil and gas, agriculture, fuel retailer, and transportation stakeholders have come to Congress in support of a permanent legislative solution that will finally remove outdated and unnecessary barriers to full market access for E15 while respecting states' authority under the CAA. This bill, the Consumer and Fuel Retailer Choice Act, has growing bipartisan, bicameral support. As Congress works to advance this permanent solution, we urge you to again take executive action to ensure consumers can continue to access E15, as they have for four years now, while supporting ongoing legislative efforts.

¹ <https://www.epa.gov/system/files/documents/2022-08/extensionof-nationwide-fuel-waiver-allowing-e15-gasoline082622.pdf>

When industry stakeholders have certainty that the infrastructure investments they make, some of which have been supported by tens of millions of federal dollars in cost-sharing agreements, they have the confidence to offer consumers E15 without the risk and expense of switching out fuels for no reason. Now, over 2,900 retail locations offer E15 nationwide, providing consumers a cleaner fuel that sold for as much as 96 cents less per gallon than conventional gasoline blends last summer, with an average nationwide discount of 16 cents per gallon between May and August of 2022.² As a result of your timely action last summer, the nation's fuel supply was increased at a critical time and American consumers saved \$57 million.³ Going forward, net consumer savings from E15 could exceed \$20 billion annually while also reducing carbon emissions by 17.62 million tons, the equivalent of taking 3.8 million cars off the road each year.⁴

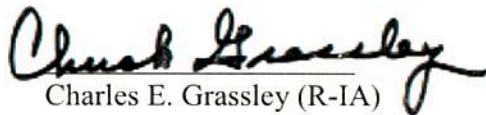
Preventing a disruption in consumer access to E15 through the summer of 2023 remains a straightforward, no-cost solution at your disposal to recommit our nation's broader response to the effect of Russia's actions and the war's collateral effect on fuel markets while advancing our domestic energy and environmental needs.


Thank you for your swift consideration of this request.

Sincerely,



John Thune (R-SD)
United States Senator



Richard J. Durbin (D-IL)
United States Senator

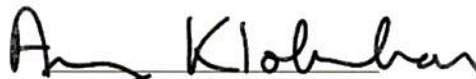

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United States Senator


Debbie Stabenow (D-MI)
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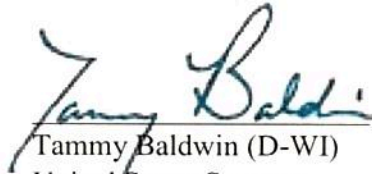
² https://growthenergy.org/wp-content/uploads/2022/10/One-Sheet_DigitalB.pdf

³ <https://ethanolrfa.org/media-and-news/category/blog/article/2022/10/c15-extended-gasoline-supplies-at-a-critical-time-this-summer-and-saved-americans-millions-at-the-pump>

⁴ <https://www.biofuelsdigest.com/bdigest/2022/10/18/the-uss-86b-c15-bonanza-new-study-finds-big-boost-for-us-gdp-with-c15/>



M. Michael Rounds (R-SD)
United States Senator



Tammy Baldwin (D-WI)
United States Senator



Joni K. Ernst (R-IA)
United States Senator



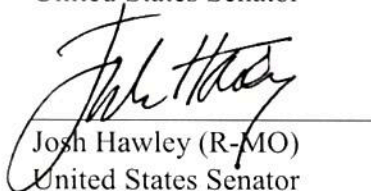
Tammy Duckworth (D-IL)
United States Senator



Kevin Cramer (R-ND)
United States Senator



Tina Smith (D-MN)
United States Senator



Josh Hawley (R-MO)
United States Senator



Roger Marshall, M.D. (R-KS)
United States Senator



Pete Ricketts (R-NE)
United States Senator

cc:

✓ The Honorable Michael S. Regan, Administrator of the Environmental Protection Agency

United States Senate

WASHINGTON, DC 20510

February 15, 2023

Administrator Michael S. Regan
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Administrator Michael S. Regan:

We write regarding the February 3, 2023, Norfolk Southern train derailment near the Ohio-Pennsylvania border in East Palestine, Ohio. We want to express our appreciation for the U.S. Environmental Protection Agency's (EPA) swift response and for the assistance the agency provided to state and local authorities, including the Ohio Environmental Protection Agency (OEPA), the Pennsylvania Department of Environmental Protection (PA DEP), fire fighters, and local police. We would also like to commend the speed in which the EPA and state agencies were able to set up community air and water quality monitoring in the surrounding area, as it provided critical data that helped ensure public health and safety in the immediate aftermath of the incident.

While we are grateful no injuries or fatalities resulted directly from the derailment, we are concerned about the release of hazardous materials into the air and groundwater across the region surrounding the derailment. Hundreds of families were forced to flee their homes and are now rightfully concerned about long-term health risks associated with exposure to the toxic chemicals released. No American family should be forced to face the horror of fleeing their homes because hazardous materials have spilled or caught fire in their community. We ask that EPA use its existing authorities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) to ensure that Norfolk Southern pays for the clean-up of these hazardous materials, as well as compensates residents and affected businesses as required. Additionally, we ask that EPA continue monitoring the land, air, and water in East Palestine, Darlington Township, and impacted communities until the long-term effects of the exposure are fully understood.

The Norfolk Southern train had 53 cars that derailed with at least 10 carrying hazardous material, including Vinyl Chloride, Ethylene Glycol Monobutyl Ether, 2-Ethyl Hexyl Acrylate, Isobutylene, and Butyl Acrylates. According to the EPA, acute exposure to high levels of vinyl chloride in the air can impact the central nervous system causing dizziness, drowsiness, and headaches. Chronic exposure to this chemical can cause liver damage, central nervous system effects and even a rare form of liver cancer¹.

The community is also concerned about the possible exposure to additional hazardous gases that may have been released when first responders were forced to vent and combust the railcars containing vinyl chloride to prevent a catastrophic explosion. Norfolk Southern has a

¹ <https://19january2017snapshot.epa.gov/sites/production/files/2016-09/documents/vinyl-chloride.pdf>

responsibility to these first responders and the workers that put their lives on the line to keep the community safe by fighting fires, going door to door to evacuate residents, and working on getting the derailed train, hazardous material, and contaminated water and soil removed from the immediate area.

We appreciate the extensive air and water monitoring operations that have begun, but the impacted communities need further monitoring and assurance of safety of their homes, their water, and their soil. Our offices are aware of reports of lingering odors and animal deaths. Additionally, there are reports that chemicals from the derailment have been found in the Sulphur Run stream and other downstream waterways. Given the rural nature of this community, many residents rely on private drinking water wells that are not connected to a public water supply system, and therefore may need additional testing from EPA to ensure the safety of their drinking water sources. We are deeply concerned for the safety of the community in the impacted area.

In response to this incident, we ask that you provide clarifying answers to the following questions by Friday, February 24th.

1. Can you commit to us that EPA will use all available existing authorities to hold Norfolk Southern accountable for all remediation activities in the short- and long-term that will be necessary to restore the environment and protect public health of the surrounding region?
 - a. Please provide a detailed explanation of the existing authorities the agency has to respond to environmental disasters, and what actions can be taken under those authorities.
 - b. Please provide information on any long-term environmental impacts the agency has reason to believe may occur due to the train derailment and resulting release of several hazardous substances.
2. Please provide information on the air and water monitoring plans advanced by the state agencies and Norfolk Southern contractors in coordination with EPA's monitoring, and explain whether those plans are satisfactory under the agency's requirements?
3. Does EPA have the resources needed for its operations in East Palestine and the surrounding area and the resources necessary to provide continued assistances to OEPA and PA DEP?
4. Does the EPA have full access to monitoring data that OEPA, PA DEP, and Norfolk Southern are gathering, and does EPA have full confidence there is a coordinated plan to recognize and mitigate any issues identified through monitoring?
5. How long does the agency expect remediation of the immediate accident site to take and how long will monitoring occur to ensure that no contaminants are migrating off site?
6. Are there any additional actions that Norfolk Southern could take to mitigate the environmental harm and protect public health?

7. What is the short and long-term plan to monitor the first responders and workers that tirelessly worked night and day to protect the community?

The work of the EPA in this matter is tremendously important. Thank you for your attention to concerns of East Palestine, Darlington Township, and the surrounding communities. Please keep our offices informed as you continue to monitor and provide assistance to the region.

Sincerely,



Sherrod Brown
United States Senator



JD Vance
United States Senator



Robert P. Casey, Jr.
United States Senator



John Fetterman
United States Senator

United States Senate

WASHINGTON, DC 20510

February 28, 2023

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Biden:

We write to request you again direct the Environmental Protection Agency (EPA) to use existing authority to prevent the disruption of sales of E15 fuel during the 2023 summer driving season by extending the Reid vapor pressure (RVP) allowance from June 1 through September 15.

As you know, enabling full market access for E15 increases the energy security, environmental, and economic benefits of the domestic fuel supply and is a sound component of an all-of-the-above energy strategy. Unfortunately, an underlying justification for your emergency action last summer, the Russian war of aggression against Ukraine, appears likely to continue causing global energy and security issues into this year.¹ Taking early action on E15 will send timely and necessary signals across the energy supply chain so that fuel producers and retailers will have the certainty they need to ensure affordable, reliable, and cleaner fuel options for American consumers throughout the year. Further, U.S. use of E15 will continue to displace Russian oil and finished gasoline products, ease domestic and global supply constraints, and lower net domestic fuel prices.

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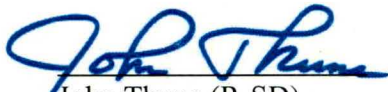
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Thank you for your swift consideration of this request.

Sincerely,


John Thune (R-SD)
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Richard J. Durbin (D-IL)
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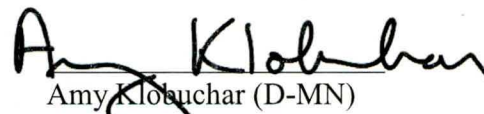

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Debbie Stabenow (D-MI)
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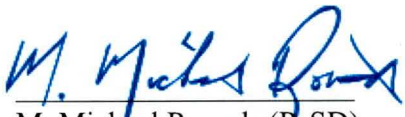

Deb Fischer (R-NE)
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Amy Klobuchar (D-MN)
United States Senator

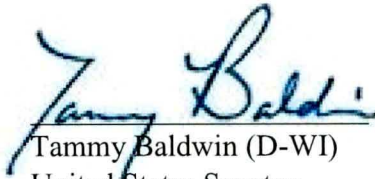
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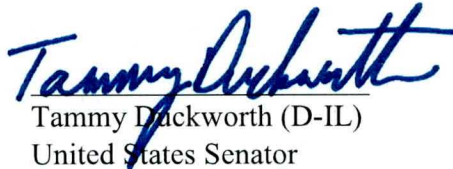
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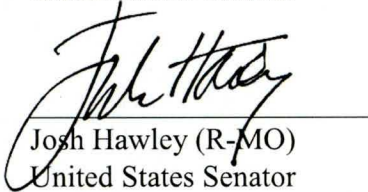
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Tina Smith (D-MN)
United States Senator



Josh Hawley (R-MO)
United States Senator



Roger Marshall, M.D. (R-KS)
United States Senator



Pete Ricketts (R-NE)
United States Senator

cc:

The Honorable Michael S. Regan, Administrator of the Environmental Protection Agency

United States Senate

WASHINGTON, DC 20510-4105

OFFICIAL BUSINESS

PRESORT FC

John Thune
U.S.S.

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500



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United States Senate

WASHINGTON, DC 20510

February 27, 2023

Michael S. Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dr. Rochelle Walensky
Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30329

Dear Administrator Regan and Director Walensky:

In the wake of this month's train derailment in East Palestine, our constituents continue to worry about the disaster's impacts on their health and the health of their family members. Despite reassurances from local, state, and federal agencies that the air and drinking water are safe, their anxiety persists. We write to share their concerns and to provide the attached opinion from two medical professionals advising the immediate initiation of a health survey of residents in the affected region. We urge you to work with your colleagues across the federal government to allocate resources and expertise to begin the surveys and assessments needed to establish a medical baseline for the community, as suggested in the attached document.

Our visits to East Palestine left us struck by the anxiety and lack of trust experienced by this community. From the fumes lingering in their homes, to the dead fish in their streams, and the chemical leach from subsurface soils into surface water, the reasons for this unease are obvious. We have witnessed the way that chemicals seep out of underwater soil; it is understandable why residents are worried. The only way to assuage those concerns is to take them seriously and respond in an open and transparent manner.

We are hopeful that the U.S. Environmental Protection Agency's (EPA) efforts to take over cleanup of this disaster site will mitigate the health risks to our constituents. We encourage the EPA to continue regular testing of the air, surface water, and groundwater in East Palestine and the surrounding community. But we remain worried that even good-faith efforts from the federal government are ill-equipped to address our residents' concerns about chronic exposure to the hazardous chemicals released in the train derailment. In addition to concerns about acute exposure, we have heard from many residents who are worried about the potential for chronic exposure.

While we understand that EPA, the Centers for Disease Control and Prevention (CDC), and other local, state, and federal authorities have been more focused—by design—on emergency removal action and associated risks related to acute exposure in the immediate aftermath of the derailment, we want to ensure that efforts moving forward also anticipate and address our constituents' concerns over potential long-term impacts from the disaster. We want to ensure that ongoing efforts from Norfolk Southern, as well as federal, state, and local authorities, are allocated in a way that addresses both the immediate needs of the community as well as long term remediation and response efforts. We appreciate the federal government's commitment to ensure that immediate costs and remediation efforts are covered, and encourage you to also ensure that protocols are in place to cover the efforts of future clinicians treating these residents and any future litigation needed to make them whole if any ill effects continue to materialize in the years to come.

To aid in efforts to evaluate potential future realizations of harm caused by the derailment, we have solicited a professional opinion, included as an attachment to this letter, from Professor Kyle Walsh of Duke University's School of Medicine and Professor Glenn Talaska of the University of Cincinnati's College of Medicine. Professor Walsh, a native of Northeast Ohio, is Director of Duke's Division of Neuro-epidemiology and Co-leader of the Duke Cancer Institute Program in Neuro-oncology. Professor Talaska is Director of the University of Cincinnati's Division of Environmental and Occupational Hygiene and Program in Biomonitoring. Their professional opinion advises the immediate initiation of a health survey of residents in the affected region.

As Professors Walsh and Talaska note, "In the coming months and years, additional epidemiologic assessments will be necessary to identify potential longer-term negative health outcomes in exposed residents." However, "[r]igorously and empirically determining the long-term health consequences will be complicated by a lack of adequate comparator populations."

Professors Walsh and Talaska argue that "[c]onducting pre/post comparisons of subclinical biomarkers will be instrumental in assessing emerging immunologic and genetic consequences of exposure. ... Because the impacts of exposure will continue to accrue, obtaining these data and samples requires immediate action."

Professors Walsh and Talaska recommend the voluntary collection of health indicators from a broad spectrum of residents of the East Palestine region to allow these residents to establish a medical baseline from which to track any future negative health outcomes resulting from their exposure. This effort should begin as soon as possible, while the opportunity to collect a valid baseline remains.

Such a health screening effort will not be an easy undertaking; the residents of this community have been burned before by Norfolk Southern contractors knocking on their doors and demanding they sign indemnification forms. We have spoken with multiple constituents who have attempted to get this kind of baseline testing done by their primary care doctors, only to learn that their local doctors lack the capabilities. For others, requests from strangers to survey their sensitive health data may not be well received, and any survey efforts must be designed in

partnership with the community and trusted local stakeholders and with the greatest possible sensitivity to these residents' unease.

The residents of East Palestine and the surrounding community deserve to know if their health has been compromised by this disaster now and for years to come. Therefore, we urge you to work with your colleagues across the federal government to allocate the resources and expertise needed to begin the surveys and assessment needed to establish a medical baseline for the community. We understand that the CDC is able to, upon request, help analyze data collected to provide information on how the measured exposures may impact human health and provide comparison values to aid in future analysis. Should the state of Ohio or the community in East Palestine request this assistance, we urge you to continue to act as a resource in responding to this tragedy.

We hope that efforts to establish a medical baseline for the community will bolster public confidence in the cleanup efforts you have undertaken, and we appreciate your continued support to the state and local community in its efforts to respond to the impact of the derailment over both the short- and long-term.

Sincerely,

A handwritten signature in black ink, appearing to read "JD Vance", with a stylized, flowing script.

JD Vance
United States Senator

A handwritten signature in blue ink, appearing to read "Sherrod Brown", with a stylized, flowing script.

Sherrod Brown
United States Senator

CC: The Honorable Mike DeWine, Governor of Ohio
CC: Dr. Bruce Vanderhoff, Director, Ohio Department of Health